

EXHIBIT 2

**TO PLAINTIFF'S STATEMENT OF UNDISPUTED MATERIAL
FACTS IN SUPPORT OF ITS MOTION FOR SUMMARY
JUDGMENT AGAINST DEFENDANT ERIC MONCADA**

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES COMMODITY FUTURES)	Civil Action No. 12-cv-8791 (CM)
TRADING COMMISSION,)	(<u>GWG</u>)
Plaintiff,)	
)	
v.)	
)	
ERIC MONCADA; BES CAPITAL LLC; and)	
SERDIKA LLC.)	
Defendant(s).)	
)	
)	
)	
)	
)	
)	

AFFIDAVIT OF GREG A. BENBROOK

I, Greg A. Benbrook, affirm pursuant to 28 U.S.C. § 1746, as follows:

1. I am the Executive Director of the Market Regulation's Investigations Department of CME Group Inc. "CME". As part of that role, I am responsible for overseeing the management of investigations in the Market Regulation Department. I have been an employee of CME for over 26 years.
2. The Chicago Board of Trade ("CBOT") is registered with the U.S. Commodity Futures Trading Commission as a designated contract market under the Commodity Exchange Act. CBOT is owned by the CME Group, Inc. ("CME Group," which includes CBOT), which has its headquarters at 20 South Wacker, Chicago IL 60606. CBOT was registered as a designated contract market in October 2009.

CBOT Wheat Futures Market:

Contract specifications:

3. A single futures contract for CBOT #2 Soft Red Winter Wheat commodity futures (hereinafter "CBOT Wheat Futures") is for the future delivery (by someone holding a "sell" or "short" position) or acceptance of delivery (by someone holding a "buy" or "long" position) of 5,000 bushels of wheat at a specified price on a specified future date (the "delivery date").
4. The CBOT Wheat Futures market lists five contracts per year that have identical contract specifications except for the delivery date. This included the December 2009 contract for

CBOT Wheat Futures (hereinafter the “December 2009 Wheat Futures Contract”) that had a delivery date of December 1, 2009.

5. In industry terminology, a single futures contract is called a “lot.” The “position” held in an account is the sum of all contracts in that account.
6. Prices for CBOT Wheat Futures contracts are quoted cents per bushel. Minimum price movements are in increments of $\frac{1}{4}$ cent, referred to in the industry as a “tick.”
7. A one “tick” change in the price of CBOT Wheat Futures results in a corresponding change in the value of one lot of a CBOT Wheat Futures contract by \$12.50.

Daily Price Limits:

8. At all times during 2009 and through the present, CBOT had daily price limits in place on the CBOT Wheat Futures contract. These daily price limits prevented any trades from being executed at prices beyond 60 cents (or 240 ticks) above or below the prior day’s settlement price.
9. On September 16, 2008 through June 24, 2012, the CBOT Wheat Futures Contract was settled pursuant to the attached CBOT Regulatory Advisory Notice Number 0815-1 (“Exhibit A”).
10. The daily price limits are in place on a particular month’s contract for CBOT Wheat Futures until the second business day proceeding the first day of the delivery month. For the December 2009 Wheat Futures Contract, these daily price limits would have been in place the entire month of October 2009.
11. If the market is trading at the upper daily price limit 60 cents above the prior day’s settlement price, the market is referred to as being “limit up.” Likewise, if the market is trading at the lower daily price limit 60 cents below the prior day’s settlement price, the market is referred to as being “limit down.”
12. The December 2009 Wheat Futures Contract was not trading “limit up” or “limit down” on any of the following days: October 6, 12, 14, 19, 26, 27, 29 or 30, 2009. The daily high and low prices for each of these eight days were within 60 cents of the prior day’s settlement price.

Globex Trading Platform:

13. In October 2009, CBOT Wheat Futures contracts were traded on the CBOT exchange in one of two ways: in the trading pit by “open outcry” during regular trading hours (Monday through Friday, (9:30am -1:15pm Central); and electronically through the CME Group’s Globex trading platform (during regular trading hours, plus an overnight session running Sunday through Friday).

14. The Globex product ticker symbol for CBOT Wheat Futures is "ZW." The Globex product ticker symbol for the December 2009 Wheat Futures Contract is "ZWZ9," with the second "Z" standing for December and the "9" standing for 2009.
15. CBOT Rule 576 requires all traders using Globex to trade on the CBOT to have a unique identifier, called a "Tag 50." The Tag 50 is assigned by whichever clearing firm (e.g., a futures commission merchant ("FCM")) the trader uses. All order book messages (e.g., orders, modifications, cancellations, and executed trades) associated with that trader will include the trader's Tag 50.
16. Globex allows market participants to electronically place orders to buy or sell futures products, including CBOT Wheat Futures. All incoming "resting orders," meaning orders that are not immediately filled, are placed in the "order book." "Aggressor orders" are orders that will accept prices offered by resting orders on the other side of the market already in the order book and are, therefore, immediately filled against those resting orders. Aggressor bids entered at prices above the best offer price, or conversely aggressor offers entered at prices below the best bid price, will be first filled against resting orders at the best bid or offer price respectively. If an aggressor order cannot be fully filled by resting orders at the price specified, the unfilled portion of the aggressor order will rest in the order book.
17. In 2009 and through the present, Globex's order book showed market participants the total volume of resting orders (with the exception of iceberg orders, discussed below) at the ten highest bid prices (orders to buy) and ten lowest offer prices (orders to sell).
18. The highest priced buy order in the order book is called the "best bid." The lowest priced sell order in the order book is called the "best offer." The "bid-ask spread" is the difference between the best bid and best offer.
19. CME Group maintains records of all orders placed, modified, canceled and matched for execution on the Globex trading platform. Every order is given a unique "order ID." Every order is also associated with a unique trader identification (called a "Tag 50," referenced above in paragraph 16), which is assigned to each trader on the Globex trading platform by the clearing member through which the trader trades.

Iceberg orders:

20. From at least January 2009 through the present, Globex allows market participants to enter "iceberg" or "hidden" orders. "Iceberg" orders only show a pre-determined portion of the order in the order book. For instance, an "iceberg" order for a total of 100 lots with a pre-determined portion of 10 lots would only show as a 10 lot order visible to the market in the order book. Once the first 10 lots of the order is filled, another 10 lots of the iceberg order would appear in the order book; this would continue until either the entire 100 lots were filled or the iceberg order were canceled.

Globex audit trail data:

21. The trade data for the December 2009 CBOT Wheat Futures Contract produced by the CME Group to the Commission (previously discussed in the affidavit of James Moran dated July 1, 2013) is in a standardized template for reporting of Globex Audit Trail data. The Globex Audit Trail data provided includes data for each new, modified, and cancelled Globex order, as well as all trades executed on Globex. The trade data also includes trade date, contract, time, quantity, price, buy or sell, account, clearing firm, trader identification, and whether the order was a market or limit order. Due to the volume of data for certain days some of the spreadsheets do not include 1-lot orders, modifications, cancellations and trades.

I solemnly affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 17th day of December 2013, at Chicago, Illinois.

Greg A. Benbrook
Greg A. Benbrook

Gloria A. Nabors

